

## EXHIBIT A

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IN RE: : SUPERIOR COURT OF  
PELVIC MESH/GYNECARE : NEW JERSEY  
LITIGATION : LAW DIVISION -  
: ATLANTIC COUNTY  
: MASTER CASE 6341-10  
: CASE NO. 291 CT  
:  
: Civil Action

6           CONFIDENTIAL-SUBJECT TO STIPULATION AND ORDER OF  
7                                 CONFIDENTIALITY

8           EXPERT WITNESS TESTIMONY OF MILES MURPHY, M.D.

9 - - -  
10 November 30, 2012

11 - - -  
12 Videotaped deposition of MILES MURPHY,  
13 M.D., held at BUTLER SNOW, 500 Office Center Drive,  
14 Suite 400, Blue Bell Conference Room, Fort Washington,  
15 Pennsylvania, commencing at approximately 9:43 a.m.,  
16 before Margaret M. Reihl, a Certified Realtime  
17 Reporter, Certified Court Reporter and Notary Public  
18 for the State of New Jersey and Commonwealth of  
19 Pennsylvania.

20

21

22

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11 (and the witness)

12

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1 patient and how you're going to actually, for example,  
2 trim the mesh and implant the mesh, correct?

3 MR. SNELL: Object to the form.

4 THE WITNESS: Correct.

5 MR. SLATER: What is your objection?

6 MR. SNELL: Template, I'm not sure what  
7 you mean by template.

8 MR. SLATER: You don't know what the  
9 word template means, counsel; is that what you're  
10 saying in good faith on this record?

11 MR. SNELL: Yes, as to the Prolift® as  
12 a template.

13 BY MR. SLATER:

14 Q. Okay. You understood what I meant, right?

15 A. I think I did.

16 Q. Let's go back to your Exhibit Murphy-1.

17 Page 32 is a bibliography. What does that  
18 bibliography represent? It goes from Page 32 to 38.  
19 What does that represent?

20 A. It represents the resources that I used in  
21 drafting my report.

22 Q. After the bibli -- well, rephrase.

23 When you say the resources you used in  
24 drafting your report, what do you mean by that?

25 A. Meaning that when I wrote the report, most

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1 of the opinion, most of the body of the report is  
2 based on scientific data, published data and whenever  
3 I used, for instance, a paper that had been published,  
4 I referenced that in the report.

5 Q. So whatever clinical data you relied on in  
6 writing your report is found in the bibliography?

7 A. No.

8 Q. Well, besides what's referenced in the  
9 bibliography, what other clinical data did you rely on  
10 in forming your opinions in this case?

11 A. My own medical experience, my own clinical  
12 experience and that of my colleagues.

13 Q. To the extent that clinical or medical data  
14 is published someplace and you relied on it to some  
15 extent in forming your opinions, is it listed in the  
16 bibliography?

17 A. For this first report, yes.

18 Q. At the time you wrote and signed your first  
19 report, which is Murphy-1, the published or documented  
20 clinical data that you were relying on was listed in  
21 the bibliography from Page 32 to 38, correct?

22 MR. SNELL: Objection, form.

23 THE WITNESS: That was a pretty long  
24 question, but I think the answer is yes.

25 BY MR. SLATER:

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1 Q. Okay. Well, what I was saying is at the  
2 time you formed your opinions that are set forth in  
3 Murphy-1, the first report you authored, to the extent  
4 that you relied on data that is actually published,  
5 actually documented, are those sources of data listed  
6 in the bibliography?

7 A. The ones that I specifically referenced are  
8 in the bibliography. It doesn't mean that I may not  
9 have read something else in my life, in my last eight  
10 and a half years of practice and used that in forming  
11 my opinions, but when I specifically, for instance,  
12 quote a paper, I put it in my bibliography.

13 Q. You understand one of the purposes of  
14 writing your report is to give notice to myself and  
15 other attorneys as to what your opinions are and what  
16 you relied on in forming those opinions, correct?

17 A. Right.

18 Q. You understood that, right?

19 A. I understand that generally you don't want  
20 to be surprised at court if I, all of the sudden, want  
21 to reference something and I haven't mentioned it  
22 before.

23 Q. Well, not just generally, but you understand  
24 that the court rules actually say that if you're going  
25 to rely on something, you're supposed to actually



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1 disclose what you relied on in forming your opinions;  
2 did you understand that when you authored this report?

3 A. I think so. I'm not a lawyer but --

4 Q. When you wrote this report and you attached  
5 this bibliography to it --

6 A. Yes.

7 Q. -- did you intend to give notice to myself  
8 and other people in this case as to what published or  
9 documented clinical data you were relying on in  
10 forming your opinions in the report?

11 MR. SNELL: Objection, go ahead.

12 THE WITNESS: When I wrote the report  
13 and compiled the bibliography, I wanted to make sure  
14 that if there was important literature that I wanted  
15 to reference in my report that I included in the  
16 bibliography. That was my main purpose of doing the  
17 bibliography.

18 BY MR. SLATER:

19 Q. So at the time that you wrote the report,  
20 any literature that was -- rephrase.

21 So at the time you wrote this report and  
22 signed it, any published data, clinical data that you  
23 felt was important to you in forming your opinions,  
24 you listed in the bibliography?

25 MR. SNELL: Objection, form.

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1 THE WITNESS: Not necessarily. I  
2 simply --

3 BY MR. SLATER:

4 Q. Well, tell me.

5 A. Those were the ones that I used when I wrote  
6 the report.

7 Q. Well, is there something that you relied on  
8 that is published data at the time you wrote this  
9 report that's not listed in the bibliography that you  
10 can point to right now?

11 A. That I relied on in actually writing this  
12 version of the report?

13 Q. Yes.

14 A. I can't point to anything like that right  
15 now.

16 Q. Okay. After the bibliography there is a  
17 section titled "Additional List of Materials - Miles  
18 Murphy, M.D."

19 Do you see that?

20 A. Yes.

21 Q. What does that list represent?

22 A. That represents additional material that I  
23 thought we might want to be able to reference in my  
24 testimony on this case.

25 Q. Did you review all of the materials listed



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1 on this list of additional materials before you signed  
2 that report?

3 A. Briefly, yes.

4 Q. When you say "briefly," what do you mean?

5 A. I looked at them.

6 Q. Well, when you say "looked at them," for  
7 example, there could be a deposition transcript, and  
8 I'll take an example from this additional list of  
9 materials. There's the deposition transcript of  
10 exhibits of Piet Hinoul, P-i-e-t H-i-n-o-u-l, listed.

11 Did you read that entire transcript and  
12 exhibits?

13 A. No, I did not. That's a very long --  
14 there's a couple volumes of that, but I had certainly  
15 reviewed it.

16 Q. Well, when you say you reviewed it, what  
17 does that mean?

18 A. I read some of it.

19 Q. How many pages of it did you read?

20 A. I don't recall.

21 Q. Did you read more than ten pages of that  
22 deposition?

23 A. Yes.

24 Q. But you can't tell me beyond that what you  
25 specifically read?

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1           A.    I can remember some of the things that I  
2    read in it.

3           Q.    Well, was there -- well, we'll come back to  
4    that.

5                   Did you read -- it says -- rephrase it.

6                   It says Jessica Shen, deposition transcript  
7    with exhibits.

8                   Did you read the entire deposition and  
9    exhibits?

10          A.    No.

11          Q.    It says Judi Gauld, deposition transcript  
12   with exhibits.

13                  Did you read the entire deposition and  
14   exhibits?

15          A.    I did not.

16          Q.    It says David Robinson, deposition  
17   transcript with exhibits.

18                  Did you read the entire deposition and read  
19   all the exhibits?

20          A.    No.

21          Q.    And with regard to Jessica Shen, Piet  
22   Hinoul, Judi Gauld and David Robinson's deposition  
23   transcripts that are listed here, did you actually  
24   watch the videos of their depositions?

25          A.    No.

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1 Q. Didn't see any of those videos, correct?

2 A. Correct.

3 Q. Have you seen the video of anyone's  
4 deposition that's ever been taken in this case?

5 A. No.

6 Q. Did you ever ask to see any of the videos of  
7 the actual deposition testimony of any witness in this  
8 case?

9 A. No.

10 Q. In writing the report, which we marked as  
11 Murphy-1 -- well, rephrase.

12 This list of additional materials, are these  
13 basically other materials that you wanted to list in  
14 case you wanted to mention them during trial so you  
15 could say, hey, you know that I listed them; is that  
16 basically the purpose?

17 MR. SNELL: Object to form. Go ahead.

18 THE WITNESS: I think that's a fair  
19 assessment because from the time I drafted my report,  
20 there were a lot of depositions and your -- you know,  
21 the plaintiffs' expert had referenced things, and I  
22 wanted to make sure that I could reference other  
23 things as well.

24 BY MR. SLATER:

25 Q. Okay. Is it fair to say that at the time

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1     you wrote your first report, which is Murphy-1, you  
2     had not read all of the materials listed on the  
3     list -- additional list of materials?

4           A.     Yes.

5           Q.     Is it fair to say you did not rely on all  
6     the materials listed in the additional list of  
7     materials when you actually formed your opinions?

8           A.     I would say that I didn't rely on all of  
9     them, but it's very likely that I would have read some  
10    of the other additional materials, just not quoted  
11    them in my bibliography.

12          Q.     When you wrote your report, you set forth  
13    opinions, and I'm talking about your first report,  
14    Murphy-1, you set forth certain opinions in the  
15    report, correct?

16          A.     Correct.

17          Q.     Were those all of the opinions you had  
18    formed with regard to this litigation at the time that  
19    you authored that report?

20          A.     I don't know that I -- I mean, I have lots  
21    of opinions about this case. I don't know that every  
22    single solitary one was listed in the report.

23          Q.     You understood that one of the purposes of  
24    your report was to give notice to attorneys in the  
25    litigation like myself of what your opinions were,

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1 correct?

2 A. Correct.

3 Q. Okay. Did you endeavor, when you wrote this  
4 report, to list each of the opinions that you had  
5 formed at the time that you authored the report; was  
6 that your goal?

7 A. My goal was simply to write a report that  
8 reflected my views of Prolift® in this case.

9 Q. Okay. And the opinions set forth in your  
10 first report, Murphy-1, accomplished that, from your  
11 perspective?

12 A. I think so, but I think that in looking at  
13 other people's depositions, there may have been things  
14 that they covered that I didn't think were necessarily  
15 essential to cover in my first report and, therefore,  
16 wanted to have some supplemental material later on.

17 Q. At the time that you authored your first  
18 report --

19 A. Yes.

20 Q. -- the day that you put your signature, your  
21 electronic signature on there, typed your name in, did  
22 that represent the opinions you had formed as of that  
23 point in time with regard to this litigation?

24 MR. SNELL: Objection, form.

25 THE WITNESS: Yes.



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1 BY MR. SLATER:

2 Q. In the report you listed many facts from  
3 various sources of information that you referred to in  
4 the report, correct?

5 A. Yes.

6 Q. Did you, in writing the report, attempt to  
7 list those facts that you felt were most important to  
8 you in forming your opinions as set forth in the  
9 report?

10 A. I think that's a fair thing to say.

11 Q. If you read something in one of the  
12 depositions that you listed in your additional  
13 materials -- rephrase.

14 Let me ask you this: Had you read any parts  
15 of the Jessica Shen, Piet Hinoul, Judi Gauld and David  
16 Robinson deposition transcripts at the time you wrote  
17 the report, or did you just list them at the time  
18 because it was something that you thought you might  
19 want to reference later?

20 A. When I wrote Murphy-1?

21 Q. Yes.

22 A. I believe I had not seen those when I wrote  
23 Murphy-1.

24 Q. At the time you wrote Murphy-1 and signed  
25 it, had you read all of the expert reports that are



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1 listed below the list of deposition transcripts, or  
2 were those things you listed because you planned to  
3 read them at a later date?

4 A. I'm sorry. Which are you referring to? Are  
5 you referring to something in the bibliography?

6 Q. I'm looking the list of additional  
7 materials.

8 A. Oh, additional materials. I'm sorry. Can  
9 you repeat the question then?

10 Q. Sure. Go to the page where you listed the  
11 four deposition transcripts?

12 A. Yes.

13 Q. Because right below that are a list of  
14 expert reports.

15 A. Yes.

16 Q. Might as well turn to it.

17 A. Yeah.

18 Q. Right before your CV.

19 Are you with me now?

20 A. Yes.

21 Q. On the last page of the list of additional  
22 materials, there's a list of expert reports under  
23 three headings, expert general reports, Plaintiff  
24 Gross, Plaintiff Wicker.

25 Do you see that?

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1           A.     Yes.

2           Q.     At the time that you authored Murphy-1, your  
3     first report, had you read those, or did you simply  
4     list those in the list of additional materials because  
5     they were things that you intended to read later?

6           A.     The Anne Weber expert report, I believe I  
7     had that at the time I drafted Murphy-1. I certainly  
8     did not read every page of that report, but I had read  
9     a significant amount of it. I don't think that I had  
10    read any of the other reports at the time I drafted  
11    Murphy-1.

12          Q.     Okay. With regard to the list of additional  
13    materials, with the exception of the deposition  
14    transcripts and expert reports, which you've already  
15    spoken about, are you able to go through this list if  
16    you needed to, and would you be able to tell me which  
17    things you had looked at at the time you wrote the  
18    report versus those things that you just listed  
19    because you intended to look at them later, or would  
20    that be something you would be unable to do?

21          A.     I think I'd be unable to do that.

22          Q.     Okay. To the extent that you felt that  
23    something was important enough to actually reference  
24    it in the report itself as having been relied on,  
25    those materials are listed in the bibliography,

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1 Q. That's just an assumption you're forming?

2 A. It's an educated assumption.

3 Q. Do you know what data was available to  
4 Ethicon at the time the decision was made that the  
5 Prolift® is safe and effective to be marketed?

6 A. I'm sorry. Could you repeat the question.

7 Q. Sure. Do you know what specific data was  
8 available to Ethicon as of February, March 2005 when  
9 they were actually now launching the Prolift®, what  
10 they actually were relying on at the time they made  
11 the decision, yes, it's safe and effective, yes, we  
12 can market it?

13 A. I do not know what they were relying on.

14 Q. Since you don't know specifically what  
15 they're relying on, you're not going to offer any  
16 specific opinions about whether that data was  
17 sufficient or not; fair statement?

18 MR. SNELL: Objection, form.

19 THE WITNESS: I'm happy to offer  
20 opinions on the data that was present. I'm not going  
21 to make an expert opinion as to what Ethicon was  
22 relying on. I have no idea what they thought was  
23 important.

24 BY MR. SLATER:

25 Q. My question is this: Since you don't know

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1     what Ethicon specifically was relying on when they  
2     made that decision to launch the Prolift®, you  
3     wouldn't be offering me an opinion about whether  
4     something you're not familiar with was reasonable or  
5     not, correct?

6           A.     Not unless you give me some information  
7     about what they knew and what they were relying upon,  
8     and then I'd be happy to make an opinion on it.

9           Q.     Well, this is my chance to ask you what you  
10    know and what your opinions are.

11           So as you sit here now, you have no opinion  
12    on that, correct?

13           A.     Correct.

14           Q.     Do you know Axel Arnaud? Did you ever meet  
15    him?

16           A.     I think I met him in an airport once.

17           Q.     Attached to your supplemental report, which  
18    we marked as Murphy-2, is a list of transcripts,  
19    expert reports and literature and then an other  
20    section, right?

21           A.     I see that.

22           Q.     Did you read all these materials before  
23    signing this report on November 28, 2012?

24           A.     What I will say is I've been bombarded with  
25    documents in the last two weeks. I open the Fed Ex

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1           A.    I may have spoken to them personally. I  
2    don't know that we were speaking about that. I know  
3    there are people like at the Mayo Clinic and Cleveland  
4    Clinic that get a lot of these referred in to them,  
5    and I've certainly spoken to a lot of those  
6    physicians.

7                   I don't know that -- I know that a lot of  
8    people have come to me at meetings and said, hey, you  
9    know, we're seeing more problems with these types of  
10   things than what you guys are reporting. And I know  
11   Matt Barber, his group did a presentation on, you  
12   know, removing mesh and things like that and what we  
13   call tips and tricks in terms of techniques for doing  
14   that.

15          Q.    Let me come back to your report, your  
16   supplemental report. We were talking about the list  
17   of materials.

18                   Are there materials on this list that you  
19   probably have not read at this point?

20          A.    Certainly in their entirety, yes.

21          Q.    Are there materials on this list that you  
22   probably just scanned very quick and couldn't even  
23   tell me what those materials said, as you sit here  
24   now?

25          A.    As I sit here now, probably yes.



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1           Q.    Are you able to point out, other than  
2   Dr. Margolis' transcript and Dr. Elliott's transcript,  
3   which you said you believe you read completely, and  
4   Dr. Lucente's you said you read --

5           A.    10%.

6           Q.    10% -- can you give me any quantification of  
7   how much of these other materials you reviewed?

8           A.    It would be something pretty close to a  
9   guess. Let me say this, less than 20% of all of them.

10          Q.    In the list of materials there's literature,  
11   and on the second page of that there's a series of  
12   articles towards the middle, where the first author in  
13   four straight is Klinge, K-l-i-n-g-e.

14                Do you see that?

15          A.    I do.

16          Q.    Do you know who that is?

17          A.    He's one of these names that I see in  
18   regards to mesh, basic science regarding mesh.

19          Q.    Anything else?

20          A.    I don't know him personally. I don't even  
21   know if it's a man or a woman, to be honest with you.

22          Q.    Have you made a point of studying the basic  
23   science with regard to polypropylene mesh and how it  
24   interacts within the woman's pelvis?

25          A.    I certainly have tried to keep up on all the



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1     standpoint.

2           Q.     Is there -- well, let me ask you this: The  
3     standard you just gave me of what you think should be  
4     in an IFU, is that just your own personal standard?

5           A.     That was my opinion of what makes sense to  
6     be in an IFU.

7           Q.     That's your own personal opinion, not based  
8     on any other information you've read or seen, correct?

9           A.     Correct.

10          Q.     It's just your own personal viewpoint, your  
11     own personal standard, correct?

12          A.     Yes.

13          Q.     With regard to what would need to be  
14     included in the patient brochure with regard to risks  
15     and benefits, to the extent you've drawn any opinions  
16     in your report on that, again, is that based on your  
17     own personal standard, your own personal opinion?

18          A.     I do not -- I think the answer is yes  
19     because I don't know any sort of legal guidelines by  
20     which patient brochures are supposed to be produced.

21          Q.     And do you have any information you can  
22     share with me now that you gleaned from any Ethicon  
23     documents or testimony where you saw what Ethicon  
24     thought the standards were to determine whether or not  
25     a risk or a benefit would need to be described and how

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1 it should be described in a patient brochure?

2 A. I don't recall seeing any standards that  
3 they refer to.

4 Q. Did you see any testimony in any deposition  
5 that you're relying on, as you sit here now, with  
6 regard to what needs to be included in an IFU?

7 A. I do not recall seeing anything like that.

8 Q. So, again, with regard to the IFU and the  
9 contents of the IFU, whatever opinion you're drawing  
10 is just based on your own personal opinion, not based  
11 on what any other standards may be or what anyone else  
12 might think, correct?

13 A. Right. It's my expert opinion, not based on  
14 outside information.

15 Q. And in your entire career, have you ever  
16 been asked to determine what information needs to be  
17 provided in an IFU?

18 A. Not that I recall.

19 Q. Have you ever in your career ever been asked  
20 to give input on what should be in a patient brochure?

21 A. Not that I recall.

22 Q. So the first time you've ever offered such  
23 opinions and done this type of analysis has been in  
24 this case as an expert, correct?

25 A. Correct.

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1 A. Yes.

2 Q. Show me where.

3 A. Okay. They say, although rare,  
4 complications include injury to blood vessels of the  
5 pelvis. If you injure a blood vessel of the pelvis,  
6 that could lead to you bleeding out and dying. That  
7 is a life-changing complication. If you injure a  
8 nerve, I think that could lead to pelvic pain.

9 If you have difficulty urinating, if you  
10 have bladder or bowel injury, I think that could be a  
11 life-changing or life-altering -- no, life changing is  
12 the term that they use -- complication. So that's why  
13 I said yes to your question.

14 Q. So you're basically saying that based on  
15 that language, you would assume that patients would  
16 figure out that when they read that language, that is  
17 communicating to them that the complications they can  
18 suffer from the Prolift® can be life changing and that  
19 those complications can result in incapacitating  
20 pelvic pain, dyspareunia and large-scale erosions that  
21 can be exceedingly complex and not easily resolved?

22 A. I don't think that a patient brochure is --  
23 the point of it is to explain every potential possible  
24 thing that can happen to a patient. I think what the  
25 point of a patient brochure is is to facilitate a

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1 discussion between the patient and her surgeon  
2 regarding the surgery that that surgeon is about to  
3 perform upon the patient, and, yes, I think that is  
4 adequate.

5 Q. When you say that that is adequate, that, as  
6 I think we described earlier or discussed earlier,  
7 that is your personal viewpoint, not based on any  
8 standards that Ethicon was utilizing or any other  
9 standards you can point to for what needs to be  
10 communicated in a patient brochure, correct?

11 A. I'm not holding myself out as a expert on  
12 regulatory issues within Gynecare, correct.

13 Q. Are you holding yourself out as an expert  
14 with regard to what needs to be communicated in the  
15 patient brochure?

16 A. Yes.

17 Q. What standards, other than your own personal  
18 viewpoint, what source of information are you relying  
19 on besides that?

20 A. My standards as a caring, compassionate  
21 physician.

22 Q. But it's your own personal standard,  
23 correct?

24 A. And I think that's shared by the vast  
25 majority of doctors out there.

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1 Q. But you've never studied that question, and  
2 you can't point to anything to confirm that, correct?

3 A. I have no publications on that.

4 Q. Let's take a step back. Here in the patient  
5 brochure, Page 13, there's a heading that says "What  
6 are the risks?" And it says that the complications  
7 from the Prolift® procedure are rare.

8 Do you see that?

9 A. No, I don't see that it says that. It says,  
10 "although rare, complications associated with the  
11 procedure include" those things, so it's saying that  
12 not every complication is going to be common to the  
13 procedure.

14 Q. Let's go to the prior page, if you could,  
15 and we're going to read a few things together.

16 At the top of Page 10 of the patient  
17 brochure, it says, What is Gynecare Prolift®, and it  
18 describes that and says, "A new and revolutionary  
19 minimally invasive surgical procedure using Gynecare  
20 Prolift®," and it goes on, right?

21 A. Correct.

22 Q. Then if we go to the next page, when it  
23 says, "What are the risks?" It says, "All surgical  
24 procedures present some risks. Although rare,  
25 complications associated with the procedure," and



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1 Q. Am I correct that you reviewed very little  
2 by way of documents indicating what the people within  
3 medical affairs at Ethicon thought at any particular  
4 point in time?

5 A. What I'm saying is I got stacks of documents  
6 within the last two weeks that were about 2 feet high,  
7 and I have only gotten through a small percentage of  
8 that.

9 Q. As you sit here now, you don't feel that you  
10 have a good understanding of what the people in  
11 medical affairs at Ethicon thought with regard to mesh  
12 shrinkage, erosion or other topics?

13 A. If you read my report, I don't think  
14 anywhere do I mention what the people in medical  
15 affairs at Gynecare knew or didn't know.

16 Q. Let's turn to the page that at the top says  
17 "Clinical impact of mesh shrinkage."

18 A. How far?

19 Q. It's about ten pages in or so.

20 A. What's the topic -- the title again?

21 Q. "Clinical impact of mesh shrinkage."

22 A. Not how to assess?

23 Q. It's right before that.

24 A. Right before that. I don't see anything  
25 before that. I see how to assess mesh shrinkage,



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1 Q. Do you know what PVDF is?

2 A. Off the top of my head, I can't recall what  
3 that stands for.

4 Q. Do you know what Pronova is?

5 A. Pronova?

6 Q. P-r-o-n-o-v-a?

7 A. No, I don't recall that.

8 MR. SLATER: Why don't we take five  
9 minutes. I may be done.

10 THE VIDEOGRAPHER: We're going off the  
11 record. The time is 9:53 p.m.

12 (Brief recess.)

13 THE VIDEOGRAPHER: We're back on the  
14 record. Here marks the beginning of Volume 1, Tape  
15 Number 9 in the deposition of Dr. Miles Murphy. The  
16 time is 10:05 p.m.

17 BY MR. SLATER:

18 Q. I'm looking now at the additional list of  
19 materials, and go to the point where it says other  
20 documents after the list of articles. Turn forward a  
21 couple pages.

22 A. Forward, meaning keep going?

23 Q. Yes. Go to the page where at the top the  
24 first document listed is Ethicon memo to R. Roussesau  
25 from Thomas Barbolt.

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1 A. I see it.

2 Q. Have you reviewed that document?

3 A. I don't recall reviewing it.

4 Q. Go to the next document Ethicon Report, PSE  
5 Accession No., et cetera, is that a document you  
6 reviewed?

7 A. I don't recall.

8 Q. Go to the third document, Ethicon March 5,  
9 2001 memo, et cetera, is that a document you reviewed?

10 A. I don't remember reviewing that.

11 Q. The fourth document listed here, Ethicon  
12 December 2, 2001 memo to Maggie D'Aversa, et cetera,  
13 is that a document you reviewed?

14 A. I don't remember reviewing it.

15 Q. The next document listed, Ethicon Final  
16 Report PSE Accession No., et cetera, a 28-day tissue  
17 reaction study, is that a document you reviewed?

18 A. I don't remember. I don't recall reviewing  
19 that.

20 Q. The next document, Ethicon Final Report, PSE  
21 Accession No., et cetera, 14-day adhesion prevention  
22 study, did you review that document?

23 A. I don't recall reviewing that document.

24 Q. Go to the next document listed, which is  
25 Ethicon Report PSE Accession No. 02-0579, Project No.

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1 48010, et cetera, did you review that document?

2 A. I may have.

3 Q. Is there anything you can tell me about it  
4 now that's of any significance?

5 A. No.

6 Q. Go to the next document, Ethicon report  
7 dated 1/19/05 Biocompatibility Risk Assessment, is  
8 that a document you reviewed?

9 A. Again, I may have. It looks familiar, but I  
10 don't -- I couldn't tell you anything substantive  
11 about what it said.

12 Q. Next document, Ethicon Completion Report:  
13 BE-2004-1606, design verification, et cetera, is that  
14 a document you reviewed?

15 A. I don't recall reviewing that.

16 Q. The next document, clinical study report  
17 evaluation of the TVM technique for treatment of  
18 genital prolapse dated June 27, 2006, is that a  
19 document you reviewed?

20 A. That looks familiar.

21 Q. Is there anything you can tell me about it  
22 in terms of whether there's anything of significance  
23 in it, as you sit here now?

24 A. Significance in relation to what?

25 Q. Your opinions?

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1           A.    I can't recall anything.

2           Q.    Go to the next document, clinical study  
3 report evaluation of TVM technique for treatment of  
4 genital prolapse dated June 28, 2006, did you review  
5 that document?

6           A.    I may have, but, again, I would give you the  
7 same answer as the previous document.

8           Q.    Let's go to the next page. Ethicon Final  
9 Report PSE Accession No. 00-0035, an exploratory  
10 91-day tissue reaction, et cetera, is that a document  
11 you reviewed?

12          A.    I may have. Again, I remember reviewing  
13 some documents regarding animal models.

14          Q.    Is there anything about this document that  
15 you can tell me now?

16          A.    No.

17          Q.    Anything of any significance?

18          A.    No, not at this moment.

19          Q.    The next document, Final Report PSE Study,  
20 No. 08-0311; Project No. 67624, some sort of a rabbit  
21 study, is that something that you read?

22          A.    Same answer as last question.

23          Q.    The next document, chart comparing Ethicon,  
24 AMS and Bard's products by characteristic, area  
25 weight, largest pore size, et cetera, is that a

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1 document you reviewed?

2 A. I don't recall.

3 Q. The next document, Ethicon Performance  
4 Evaluation Technical Report, Assessment of Competitor  
5 Pelvic Floor Repair Meshes, Version 1 study number, et  
6 cetera, did you review that document?

7 A. I don't recall.

8 Q. The next document, International  
9 Urogynecological Association: The Usage of Grafts in  
10 Pelvic Reconstructive Surgery Symposium 2005, did you  
11 review that document?

12 A. Yes.

13 Q. What's the significance of that document?

14 A. It was a -- if I'm recalling correctly, it  
15 was a symposium of people in the International Urogyn  
16 Association looking at the usage of grafts in pelvic  
17 reconstructive surgery, and I think it was focusing on  
18 transvaginal use of grafts.

19 Q. Is there anything that you can tell me about  
20 that now that's of any significance to you in forming  
21 your opinions?

22 A. I can't recall.

23 Q. The next document, Anatomic Overview of  
24 Prolift Anterior and Posterior Procedure, is that  
25 something you reviewed?



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1 A. I think so.

2 Q. Do you know what it is? What is that  
3 document?

4 A. I think it's a computer-generated model for  
5 the procedures and it's narrated.

6 Q. Is it something that you ever utilized or  
7 saw in the course of your practice or professional  
8 education?

9 A. I believe so.

10 Q. What use was made of that document; do you  
11 know?

12 A. It's helpful in getting a three-dimensional  
13 appreciation of pelvic floor anatomy.

14 Q. Does that animation, from your prospective,  
15 provide a fair representation of, in broad  
16 illustrative terms, the Prolift® procedure?

17 A. If I'm recalling the proper thing, yes, it  
18 does.

19 Q. The next document listed, Gynecare Prolift®  
20 Pelvic Floor Repair Systems Procedure DVD, do you know  
21 specifically which procedure DVD that is?

22 A. I couldn't say for sure.

23 Q. Did you review it?

24 A. I've reviewed a procedure DVD of one of the  
25 French surgeons doing the Prolift®.



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1 Q. Do you know if that's what this is?

2 A. I couldn't say for sure, don't recall.

3 Q. Did you rely on it in any way in forming

4 your opinions, whatever DVD you saw?

5 A. Yes.

6 Q. How?

7 A. It was an example of how a Prolift® is

8 performed.

9 Q. Would that DVD, from your perspective, be a

10 fair representation of how the Prolift® procedure is

11 performed?

12 A. I don't recall.

13 MR. SLATER: And, counsel, I'm going to

14 make a request just to get the Bates numbers on those

15 two documents, okay, just so I know which ones they

16 are.

17 MR. SNELL: Okay.

18 BY MR. SLATER:

19 Q. At the very bottom of this page, it says

20 letter to EWHU Field Sales Force from Price St.

21 Hilaire dated October 23, '06 regarding criteria for

22 surgeons being trained for Gynecare Prolift®.

23 Did you review that document?

24 A. I don't recall.

25 Q. Next page at the top, letter to Gregory

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1 Jones from Celia M. Witten with FDA dated 1/8/02  
2 regarding Gynemesh® Prolene® synthetic surgical mesh,  
3 et cetera.

4 Is that a document you reviewed?

5 A. I don't recall reviewing it.

6 Q. The next document, memo to materials -- to  
7 hospital materials managers and/or directors from  
8 Gynecare Worldwide Ethicon dated October 10, 2002  
9 regarding Gynemesh® PS, is that a document you  
10 reviewed?

11 A. I don't recall reviewing it.

12 Q. The next document, memo to customer from  
13 Sean M. O'Bryan dated February 8, 2005 regarding  
14 Gynecare Prolift®, did you review that document?

15 A. I don't recall reviewing that document.

16 Q. If you could just turn back three pages to  
17 the beginning where it says "Other Documents." This  
18 is, again, in your additional materials section of  
19 your original report where it says Other Documents.  
20 At the very bottom of the page it says Clinical Expert  
21 Report Gynecare Prolift® Pelvic Floor Repair System  
22 dated July 2, 2010, did you review that document?

23 A. I may have. I don't recall.

24 Q. Go to the next page. At the top, clinical  
25 study report evaluation of the TVM technique for

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1 treatment of genital prolapse, is that something you  
2 reviewed?

3 A. I may have, but I don't recall. I couldn't  
4 tell you anything substantive about it.

5 Q. The next document, would the answer be the  
6 same?

7 A. Yes.

8 Q. Now, the third document on this page, would  
9 the answer be the same?

10 A. Yes.

11 Q. The fourth document, which says Exhibit 15,  
12 letter to Bryan Lisa from Mark Melkerson, is that a  
13 document you reviewed?

14 A. I don't recall.

15 Q. The next document, memo to Jennifer Paine  
16 from Renee Selman dated 1/16/08, did you review that  
17 document?

18 A. I don't recall reviewing that document.

19 Q. Next document, one year objective and  
20 functional outcomes -- well, I know you saw that.  
21 That's no problem.

22 Next document -- the seventh document on  
23 this page, Summary of Safety and Effectiveness  
24 submitted by Bryan Lisa for Gynecare Prolift® and  
25 Prolift+M® stamped May 15, 2008, two pages, did you

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1 review that document?

2 A. I don't recall.

3 Q. If you skip down a few lines it says, 2007  
4 and 2008 Gynecare Prolift® Pelvic Floor Repair Systems  
5 - slides (46 pages). What is that?

6 A. I believe that is a PowerPoint presentation  
7 regarding professional education.

8 Q. Did you review it in connection with this  
9 case?

10 A. Yes, I did.

11 Q. Is it of any significance to you on any  
12 particular issue?

13 A. If you wanted to name an issue, I could say  
14 whether it's significant or not. I think -- yes, I  
15 mean, yeah, it certainly goes to what professional  
16 education Gynecare provided to physicians.

17 Q. Next it says 2005 to 2006, Gynecare Prolift®  
18 Pelvic Floor Repair Systems - slides (16 pages). Do  
19 you know what that is?

20 A. I think that's a similar slide set for  
21 professional education that I believe I reviewed.

22 Q. The next item, Gynecare Gynemesh® PS  
23 nonabsorbable Prolene® Soft mesh IFU, did you review  
24 that?

25 A. I think I probably did.

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1 Q. Do you have any recollection of reading it?

2 A. I can't recall right now.

3 Q. Is there anything that you can point to now  
4 that's of significance to you with regard to that  
5 document?

6 A. I can't recall right now.

7 MR. SLATER: Thank you. I don't have  
8 any other questions for you tonight.

9 THE WITNESS: Thank you.

10 MR. SLATER: I am going to reserve my  
11 rights only with regard to some e-mails I had  
12 exchanged with defense counsel the last couple days,  
13 not with counsel who is present. We had asked for  
14 documents to be searched to see if there was anything  
15 in the files of Ethicon with regard to Dr. Murphy,  
16 other than what we have been previously produced in  
17 the DFSes, and counsel never apparently did the search  
18 or produced any documents. So in case something were  
19 to come out that we thought was really pressing, we'll  
20 reserve our rights; otherwise, thank you very much.

21 THE WITNESS: Thank you.

22 MR. SNELL: How much time do you have?  
23 Did you put a new tape in?

24 THE VIDEOGRAPHER: Yes.

25 MR. SLATER: Doesn't it feel good to